

INFORMATION



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Government
Publications

BACKGROUND AND HIGHLIGHTS

An Act to Amend


Part 1 of the Canada Labour Code

(Fair Employment Practices)

MAY 10, 1972



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BACKGROUND

The Canada Fair Employment Practices Act, now Part I of the Canada Labour Code, was enacted in 1953. It prohibits discrimination in employment and union membership based on race, colour, national origin or religion in industries under the jurisdiction of the Parliament of Canada. (See Appendix "Jurisdiction.")

Administered by the Fair Employment Practices Branch of the Canada Department of Labour, the present Act applies to employers of five or more people, and provides that investigations may be undertaken by the Branch only if based upon specific written complaints of discrimination filed by individuals on their own behalf.

During the 1971-72 fiscal year, the Branch investigated 37 complaints under the Act.

HIGHLIGHTS

The amendments proposed would extend the scope of the Act and increase the capability of the Department to administer it effectively.

Major changes include the following:

- Prohibited reasons for discrimination would be expanded to include age, sex and marital status, in addition to race, colour, religion and national origin, as provided under the present Act. These additions reflect a recommendation of the Royal Commission on the Status of Women, and are in accordance with the spirit of Convention 111 of the International Labour Organization ratified by Canada in 1964.

- The Act would apply to an employer of one or more employees, instead of five or more as at present.

- The Department would be empowered to initiate investigation where there is reason to believe that the Act has been contravened. In the present Act, such an investigation may be undertaken only when an individual files a signed complaint alleging discrimination.

- Protection would be extended to individuals who are discriminated against because of their connection with another person - for example, in the case of a racially-mixed marriage. The Act would apply in cases of discrimination against an individual because of the race, colour, religion, national origin, age, sex or marital status of any person with whom he has a relationship or association.

- The definition of "national origin" would be extended to include place of origin, as well as nationality and ancestry.

- Threatened discharge from employment or expulsion from a trade union, and intimidation of a person who has made a complaint or assisted in the complaint procedure, would become unlawful. This is in addition to the existing provision which prohibits actual discharge, expulsion or discrimination.

- Penalties on summary conviction for an offence under the Act would be increased to \$1,000 from \$100, in the case of an individual; and to \$10,000 from \$500 in the case of an employer or trade union.

- An injunction could be sought to prohibit continuation or repetition of an offence.

Discrimination on Grounds of Age

The protection against discrimination on grounds of age would not apply where age is a bona fide occupational qualification. Nor would it apply to retirement at the regular retirement age for related classes of jobs in the same company.

Discrimination on Grounds of Sex

The protection against discrimination on grounds of sex would not apply when the sex of the employee is an inherent requirement of the job.

Exclusion of Superannuation, Pension and Insurance Plans

The Bill would not apply to any superannuation or pension fund or to any insurance plan that provides life, accident, sickness or disability benefits.

Discrimination on Grounds of Marital Status

Where there is a bona fide occupational qualification, a married couple could be specified for employment.

Special Employment Programs

Programs designed specifically to improve employment opportunities among disadvantaged groups would not be contrary to the provisions of the Act, where approved by the Minister of Labour. This provision which is in keeping with I.L.O. Convention 111 would make it clear that approved programs of this nature do not constitute discrimination under the Act.

Public Service

The Public Service Employment Act would be amended by the addition of marital status and age as prohibited reasons in the prescribing or applying of selection standards. Present prohibited reasons are sex, race, colour and religion.

APPENDIX

JURISDICTION

Federal labour law applies to industries within the jurisdiction of the Parliament of Canada. These include:

- interprovincial or international rail, road and pipeline transportation, shipping and related services;
- air transportation;
- interprovincial or international communication by telephone, telegraph or cable;
- radio and television broadcasting;
- banks.

There are approximately 530,000 employees in the industries within federal jurisdiction.

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These include:

- International or international rail, road and pipeline transportation, shipping and related services;
- air transportation;
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- banks.

There are approximately 210,000 employees

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